

09/316,938

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Michael Thorsen et. al	Examiner:	S. Rimell
Serial No.:	09/316,938	Group Art Unit:	2175
Filing Date:	November 9, 1998	Docket No.:	1685
Title	Healthcare Payment, Reporting and Data Processing System and Method		

Commissioner for Patents
Alexandria, VA 22313

Affidavit of M. Nazie Eftekhari
Regarding Commercial Success and Long-Felt Unresolved Need

1. I, M. Nazie Eftekhari, am the Chief Executive Officer of HealthEZ, Inc., the assignee of U.S. patent application Ser. No. 09/316,938. I have held this position since HealthEZ's incorporation in 1997.

2. Since its inception, HealthEZ has achieved vast commercial success, growing from nothing in 1997 to a company with revenues annually of \$650,000. This commercial success has been achieved through the use of the revolutionary billing and payment system described and claimed in U.S.S.N. 09/316,938. Specifically, HealthEZ acts as the "administrator" described therein. All of HealthEZ's revenues are generated in this manner and are attributable to the system and method of U.S.S.N. 09/316,938.

3. In describing the advantages of its services to prospective customers (employers who self-fund health care plans), HealthEZ's sales representatives emphasize the following features of our services:

- the employer receives only a single periodic bill covering all of the health care services provided to all covered employees and their family members for a given time period;
- the employer pays HealthEZ in a lump sum for the aggregated claims;
- employees receive a bill that aggregates all claims for all family members during a given time period (i.e. monthly);

- the employee's statement includes a plain English description of the services rendered;
- the line items on the patient's statement are sorted by family member.

4. HealthEZ's system and method resolve a long-felt but previously unresolved need for a streamlined procedure for administering an employer self-funded health benefit plan. Prior to HealthEZ's existence and its use of the system and method of U.S.S.N. 09/316,938, an employer-funded plan was extremely cumbersome for an employer or outside entity to administer. U.S.S.N. 09/316,938 describes the prior system and its problems in detail as follows:

a. The typical process for tracking activities and funds in the administration of a health care plan is complex. The following example of current practice will illustrate the process. An employee is employed by a company. The company provides a health plan that provides a particular benefit to the employee if the employee sees providers in a specified network. Assume that the employee visits a doctor in the network for an examination. The doctor sends a bill to the administrator of the network and a statement to the employee/patient. The statement to the patient typically bears an indication that the patient is not to make a payment in response to the statement and that a claim has been submitted to their employer's administrator. The network administrator calculates a discount based on its contractual arrangement with the doctor. The network administrator then sends the repriced bill to the plan administrator for the employer. The plan administrator reviews the services provided, compares this to the benefits provided by the plan and determines what portion, if any the employer is to pay, and which portion the employee is to pay. The plan administrator sends a report to the employer and the employer then makes a payment to the plan administrator. The plan administrator then sends an "explanation of benefits" statement to the employee/patient. The plan administrator sends a check to the doctor and the doctor bills the patient/employee for the remaining amount due. The member then pays the doctor.

b. This process is rife with inefficiencies, disadvantages and delays. For example, the time period between the patient's visit and the payment to the physician can be very long; it is typically 3-4 months before the physician receives complete payment for his/her services including both the employer's contribution and the employee's.

c. Further, the time period between the patient's visit to the doctor and receipt of an actual bill is extensive, typically over 2 to 3 months; by which time the patient has forgotten about the services provided and therefore may be

unlikely to pay the bill immediately, but rather needs to check their records to satisfy themselves that the bill is accurate and that they have not already paid it. Typically this bill looks similar to the "statement" they received months earlier that they were not supposed to pay. This increases the patient's confusion and can result in further delaying payment to the provider. Consequentially, until the patient receives the final bill, many months after their visit to the doctor, he/she has little idea of how much they will be expected to pay. This makes budgeting difficult and further reduces the odds that the patient will be able to pay the amount due in a timely fashion. In addition, the employee receives separate bills for every episode of health care services. For example, if three members of the employee's family are covered under the health plan and they each visit a doctor for an examination during the course of one month, the employee will receive three separate statements and ultimately three separate bills. This compounds the confusion in an already confusing process, and the greater the confusion the greater the amount that health care providers can lose in unpaid patient bills.

d. Health bills can be substantial, and employees may not be able to pay large amounts in a lump sum which currently is the only option provided by most health care providers. The employee may take several months to save enough to make the large payment before forwarding it to the doctor, further delaying the doctor's recompense.

e. In addition, the employer receives separate bills for every incidence of an employee seeking health care. The employer must make payments to the plan administrator that coincide with or are correlated with each specific bill for services from a health care provider.

f. Health care providers must provide billing information to the network administrator, but also must attend to ultimately billing the patient and collecting the patient's portion of the fee. Collection is a sensitive problem for many providers, because they do not wish to alienate their patients. It is often easier to forego the collection of the patient's portion which is typically significantly smaller than the employer's portion, for the sake of a continuing relationship with the patient through which the health care provider can receive the lion's share of the payment from the employer.

g. Each claim follows a serial path, often with delays at every step in the path.

h. Health care costs are inflated to account for these and other inefficiencies and disadvantages in this current system.

5. This prior system was used from the advent of employer-sponsored benefit plans until HealthEZ implemented the system and method of USSN 09/316,938 in 1997. For decades, plan sponsors, health care providers, and patients endured the inadequacies of the old system. HealthEZ's system has resolved the long-felt need for a streamlined process.

6. Integral Business Services, Inc. is the assignee of U.S. Patent No. 6,012,035 which, in combination with U.S. Patent No. 5,550,734 has been cited against USSN 09/316,938. I am familiar with the services that were offered by Integral Business Services, Inc. while it was in business. At no time did IBS offer a system which provides any of the following features:

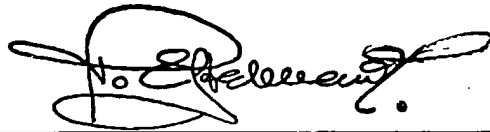
- the employer/sponsor receives only a single periodic bill covering all of the health care services provided to all covered employees and their family members for a given time period;
- the employer/sponsor pays an administrator in a lump sum for the aggregated claims;
- employees receive a bill that aggregates all claims for all family members during a given time period;
- the patient's statement includes a plain English description of the services rendered;
- the line items on the patient's statement are sorted by family member.

Were it obvious for IBS to modify its system to provide the claimed services, IBS would have done so. In its patent application, IBS attempted to describe and in its business attempted to provide a streamlined procedure. Nevertheless, IBS' efforts failed to provide the features noted above. Since IBS did not describe or provide these features, I submit that the claimed subject matter is not obvious in light of 6,012,035 alone or in combination with any other reference(s). I note that IBS is no longer in business.

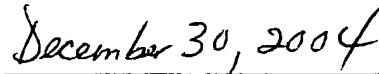
7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that all these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment or both, under 18 U.S.C.

§1001, and that willful false statements may jeopardize the validity of any patent issuing from USSN 09/316938.

By:

A handwritten signature in black ink, appearing to read "M. Nazie Eftekhari", written over a horizontal line.

M. Nazie Eftekhari, CEO, HealthEZ, Inc.

A handwritten date "December 30, 2004" written in black ink over a horizontal line.

Date